

NORCROSS PARTNERS

IBLA 77-336

Decided July 5, 1977

Appeal from a decision of the Wyoming State Office, Bureau of Land Management, rejecting appellants' noncompetitive oil and gas lease offer W-58619.

Affirmed as modified.

1. Oil and Gas Leases: Applications: Generally--Oil and Gas Leases: Applications: Drawings--Oil and Gas Leases: Applications: First Qualified Applicant

A first drawn simultaneous drawing entry card which is filed by a partnership but which is not accompanied by statements required by the pertinent regulation or which does not refer to the file serial number of the record where the statements have previously been filed is defective and must be rejected.

APPEARANCES: John D. Norcross, Partner, Chicago, Illinois.

OPINION BY ADMINISTRATIVE JUDGE RITVO

Norcross Partners has appealed from a decision, dated March 25, 1977, of the Wyoming State Office, rejecting its simultaneous oil and gas lease offer W-58619 which received first priority for parcel WY 119 in the March 1977 drawing.

[1] The offer, made on a drawing entry card as provided by the pertinent regulation 43 CFR 3112, was rejected for failure to comply with the regulation, 43 CFR 3102.4-1, which requires that an application filed by a corporation be accompanied by corporate qualification papers or a reference to a serial number where they might be filed and because a separate statement of interest by an attorney-in-fact was not submitted as required by 43 CFR 3102.6-1(2).

The drawing entry card gives the offeror's name as "Norcross Partners" and the card is signed "Norcross Partners by John D. Norcross." On appeal Norcross points out that it is a partnership and not a corporation.

Accepting this description of appellant's status as accurate, we must find that the particular reasons given for rejecting its application are not valid. However since there are similar requirements pertaining to a partnership filing and appellant did not comply with them, its offer must still be rejected.

The reverse side of the drawing entry card states:

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Compliance must be made with the provisions of 43 CFR 3102. If qualifications of association or corporation have been filed previously, identify serial record involved\_\_.\* \* \*

The regulation cited in the quote is concerned with the qualifications of lessees. It states that leases may be held by "associations of United States citizens" and that an "association" includes a partnership. 43 CFR 3102.1-1. It then continues:

§ 3102.3 Associations including partnerships.  
§ 3102.3-1 Statements.

If the offeror is an association which meets the requirements of § 3102.1-1 of this chapter, the offer shall be accompanied by a certified copy of its articles of association or partnership, together with a statement showing (i) that it is authorized to hold oil and gas leases; (ii) that the member or partner executing the lease is authorized to act on behalf of the association in such matters; and (iii) the names and addresses of all members owning or controlling more than 10 percent of the association. A separate statement from each person owning or controlling more than 10 percent of the association, setting forth his citizenship and holdings, shall also be furnished. Where such material has previously been filed, a reference by serial number to the record in which it has been filed, together with a statement as to any amendments, will be accepted.

Appellant does not dispute the pertinency of these regulations. It points out, however, that its qualifications have been on file since 1974 under Serial Number U-0142200, a general qualifications file. It says that a check of the Department's records would have

quickly established this fact and that its offer should not be rejected on a technicality. Further, it states that it relied on a filing service for expertise and that the entry cards only recently have had space for noting the serial number given to a previous qualification filing.

These contentions are without merit. The provisions of the regulation are mandatory. It is well established that an oil and gas lease offer filed on behalf of a corporation which is not accompanied by the necessary evidence of qualifications or which does not contain a reference to the case record where such evidence has previously been filed must be rejected for failure to comply with the regulations. Dal Metro Investment Co., 29 IBLA 198 (1977); Churchill Corporation, 27 IBLA 234 (1976); Manhattan Resources, Inc., 22 IBLA 24 (1975). The same result must be reached where the offer filed by a partnership is defective for the same reason. The other contentions raised by appellant cannot alter the consequences of, or excuse, its failure to comply with the regulations.

Therefore pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision of the State Office is affirmed for the reason given in this decision.

Martin Ritvo

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Administrative Judge

We concur:

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Anne Poindexter Lewis  
Administrative Judge

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Joan B. Thompson  
Administrative Judge

